

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, May 22, 2002 – 9:00 a.m. – Room 129 State Capitol

Members Present:

Sen. Curtis S. Bramble, Senate Chair
Rep. Wayne A. Harper, House Chair
Sen. Lyle W. Hillyard
Sen. Howard A. Stephenson
Rep. Judy Ann Buffmire
Rep. David Clark
Rep. Steven R. Mascaro
Rep. Ty McCartney
Rep. Carol Spackman Moss
Rep. LaWanna Shurtliff
Rep. Gordon E. Snow
Rep. John E. Swallow

Members Absent:

Sen. Ron Allen
Rep. Ralph Becker
Rep. Kevin S. Garn

Staff Present:

Mr. Bryant R. Howe, Research Analyst
Ms. Rebecca L. Rockwell, Associate General Counsel
Ms. Sandra Wissa, Legislative Secretary

Note: A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or by contacting the committee secretary, Sandra Wissa, at 538-1032.

1. Committee Business

Chair Bramble called the meeting to order at 9:21 a.m.

MOTION: Rep. Clark moved to approve the minutes of the April 24, 2002 meeting. The motion passed unanimously, with Sen. Stephenson, Rep. Buffmire, and Rep. McCartney absent for the vote.

2. Allocation of Interest Accrued on Local Option Sales and Use Taxes Collected on Behalf of Local Governments

Mr. Larry Decker, Deputy Auditor, Office of the Salt Lake County Auditor, addressed the Committee regarding the State retaining interest income earned on local sales and use taxes collected by the Tax Commission (Utah State Tax Commission). He distributed the handout "A Case for Distributing Interest Earnings on Sales Tax Collections." He said that the State has local revenues in its possession for up to 25 or 30 days, and sometimes longer. Mr. Decker noted that the interest income that the State earns on these funds remains in the General Fund and is not distributed to the local governments on the behalf of which the taxes were collected. In addition, he commented that the Tax Commission retains an administrative fee of up to 1.5 percent for the costs of collecting each local option tax. Finally, Mr. Decker stated that a vendor required to remit sales and use taxes on a monthly basis may retain a portion of certain sales and use taxes the vendor collects as a "vendor discount" to offset the vendor's costs of collecting and remitting the taxes to the Tax Commission.

Mr. Decker said that Salt Lake County is losing nearly \$500,000 per year in interest income due to the State's practice of retaining interest income. He noted that it is only fair that local governments receive this interest income. For example, he stated that state law requires a county to allocate to taxing entities the interest that the county earns on property tax collections from time the collections are received by the county to when the collections are allocated to taxing entities. Because counties must allocate interest

income earned on property taxes, Mr. Decker asserted that it is only fair that the State distributes to local governments the interest income the State earns on sales and use taxes collected on behalf of those local governments.

Sen. Bramble said that he serves on the Health and Human Services Appropriations Subcommittee, where county officials are constantly seeking increased state funding. If the State allocates interest income earned on local option sales and use taxes to local governments, he commented that the State might have less money for county health and human services programs.

Mr. Decker replied that Salt Lake County sees this as an issue of basic fairness. He noted that while he realizes that the State has limited funding, Salt Lake County also faces limited revenues and is seeking opportunities to realize all available revenues.

Sen. Hillyard said that he is involved with a national effort to simplify the administration of the sales and use tax, and that this national simplification effort may affect what the State can do regarding this issue. For example, Sen. Hillyard commented that the vendor discount is 1 percent for certain local option sales and use taxes but is 1.5 percent for the state sales and use tax. Sen. Hillyard said that these two rates may have to be made uniform.

Rep. Snow asked whether Salt Lake County would lower taxes to offset the additional revenue if Salt Lake County receives this interest income. Mr. Decker replied that budget and funding decisions are made by the county council.

Commissioner Bruce Johnson, Tax Commission, said that the Tax Commission sees itself in a fiduciary role in collecting local option sales and use taxes. He distributed a handout "Sales Tax Distributions and Calculated Interest." He noted that once the Tax Commission receives a tax payment of any kind that it is immediately deposited with the State Treasurer. Any interest income accrues to the General Fund, not the Tax Commission. He said that while state law allows the Tax Commission to charge an administrative fee of up to 1.5 percent, a recent internal review concluded that 1.2 percent was the amount required to cover the Tax Commission's costs of collection and that is the fee now imposed.

Rep. Clark asked when vendor discount payments were established and if they have ever been reduced. Commissioner Johnson replied that several years ago the Legislature required certain large vendors to file and remit sales taxes on a monthly basis. At that time, the vendor discount was established. Before the monthly filing requirement was implemented, Commissioner Johnson commented that the interest earned by vendors by retaining collections for up to 3 months compensated the vendors for their administrative costs.

Rep. Shurtliff said that a comprehensive review of the entire tax system is needed. The Legislature keeps focusing on narrow issues when a broad review is needed.

3. Resort Community Local Option Sales and Use Tax

Mr. Bryant Howe distributed and reviewed the handout "Resort Community Sales and Use Taxes." He explained that there are 12 municipalities that impose a resort communities tax of up to 1 percent, an

additional resort communities tax of up to .5 percent, or a combination of these two taxes. A municipality may impose these taxes if the municipality's transient room capacity is at least 66 percent of its permanent population. Mr. Howe noted that some of the issues that the Committee might consider regarding these taxes are: (1) how to define "transient room capacity"; (2) whether to include campgrounds or RV parks in determining transient room capacity; and (3) whether a municipality's eligibility to impose these taxes should be reviewed on a regular basis.

4. Tax Revision Legislation

Sen. Valentine reviewed the proposed legislation "Tax Revisions." He explained that Congress recently enacted several changes to federal income tax laws governing the depreciation of certain property. He explained that the changes allow a taxpayer to depreciate an additional 30 percent of the property depreciable basis in the year the property is placed in service if the property is purchased during a certain time period. While not a tax cut, this "bonus depreciation" does accelerate the tax deduction for the depreciation that would otherwise be allowable in later years. Because Utah tax law automatically conforms to changes in the federal tax laws unless Legislation is passed to sever this conformity, the passage of the federal bonus depreciation provisions will result in revenue losses in the near term for individual income taxes, corporate franchise taxes, and corporate income taxes. Sen. Valentine explained that Congress enacted these changes to stimulate investment.

Sen. Valentine explained that when the Legislature adjourned in March, the Legislature had adopted a balanced budget. Now the Legislature must balance a deficit of almost \$138 million for this fiscal year. Of this amount, about \$19 million in reduced revenue is due to the bonus depreciation provisions.

Rep. Buffmire asked how the proposed legislation recoups the lost revenue. Sen. Valentine replied that a taxpayer would add back the bonus depreciation amounts on the taxpayer's state individual income tax, corporate franchise tax, or corporate income tax return. The taxpayer would then take the depreciation over the life of the property rather than taking an additional 30 percent in the first year.

Rep. Buffmire said that this legislation is needed at least in the near term to prevent the further erosion of state revenues.

Sen. Stephenson asked whether the federal legislation is a tax cut. Sen. Valentine replied that the federal legislation is not a tax cut but a change in the timing of a deduction. Sen. Stephenson said that he was troubled with the calculation of the almost \$19 million in lost revenue. He stated that the analysis should also consider the additional revenue that the State will gain in the later years of the depreciation period and increases in economic activity as a result of the bonus depreciation.

Sen. Hillyard said that while this is a complex issue, staying linked to the federal tax system is the best policy for Utah to follow. A very compelling reason would be needed for the State to sever its linkage with the federal tax system.

Rep. Clark asked if this new federal law would encourage new investment by businesses. Sen. Valentine replied that mainstream economic theory supports these types of stimulative policies. However, he noted

that the policies may not work as quickly as they are needed because there is a lag between when the additional investment is made and when employment growth occurs.

Commissioner Johnson told the Committee that the Tax Commission has taken no position regarding the proposed legislation. He said that he understands the reticence of the Committee to apply these changes to state tax law retroactively. However, most businesses must file an amended return anyway to take advantage of the retroactive provisions of the federal law and it would not defeat settled expectations for the State to undo a retroactive change made by the federal government. Commissioner Johnson also said that most multistate businesses must already maintain multiple depreciation schedules. An additional requirement from Utah would not pose an undue burden.

Mr. Mike Jerman, Vice President, Utah Taxpayers Association, told the Committee that a survey of his organization's members found that they were opposed to this bill. More needs to be done to encourage capital investments by businesses. He noted that compliance with the federal tax laws already costs businesses \$140 billion per year and this would add to this compliance cost. He said that the Legislature should issue bonds to address the current revenue shortfall.

Mr. Tom Bingham, President, Utah Manufacturers Association, told the Committee that his organization is also opposed to the proposed legislation. He said that the current recession is largely a manufacturing recession and the bonus depreciation provisions are important to Utah businesses. He also cautioned that the Legislature should not send the message that it will continually change the State's tax system without sufficient cause.

Mr. Jim Olsen, President, Utah Food Industry Association, stated that in the long term there are no state tax revenues lost because the federal bonus depreciation provisions only delay when the taxes are paid.

Ms. Lynne Ward, Director, Governor's Office of Planning and Budget, said that now is not the time to cut taxes. While the federal government may deficit spend, the State may not. She noted that several other states have elected to not conform to the federal bonus depreciation provisions. As to issuing bonds to fund the revenue shortfall, she said it is bad policy to borrow money to pay for a tax cut.

MOTION: Rep. Snow moved to table the draft legislation and recommend that the Governor not place this item on the call for today's special session of the Legislature.

SUBSTITUTE MOTION: Rep. Buffmire moved to pass out the draft legislation favorably. The motion failed with Rep. Buffmire, Rep. Moss, and Rep. Shurtliff voting in the affirmative.

SUBSTITUTE MOTION: Rep. McCartney moved to move to the next agenda item. The motion failed in the Senate and tied in the House with Rep. Buffmire, Rep. McCartney, Rep. Moss, and Rep. Shurtliff voting in the affirmative.

The original motion passed with Rep. Buffmire, Rep. McCartney, and Rep. Moss voting in opposition.

5. Estimating the Net Revenue Effects of State Tax Law Changes

This item was not discussed because of time constraints.

6. Other Business

MOTION: Sen. Hillyard moved to adjourn the meeting. The motion passed unanimously. Chair Bramble adjourned the meeting at 11:50 a.m.